

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

v.

No. 98-4706

JOHN THOMAS GARRISON,
Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Virginia, at Charlottesville.
James H. Michael, Jr., Senior District Judge.
(CR-97-83)

Submitted: March 9, 1999

Decided: April 2, 1999

Before HAMILTON and MOTZ, Circuit Judges, and
PHILLIPS, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

Roy D. Bradley, BRADLEY LAW FIRM, P.C., Madison, Virginia,
for Appellant. Robert P. Crouch, Jr., United States Attorney, Ray B.
Fitzgerald, Jr., Assistant United States Attorney, Charlottesville, Vir-
ginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

John Thomas Garrison appeals his 120-month sentence imposed after he pled guilty to conspiracy to distribute cocaine base in violation of 21 U.S.C. § 846 (1994). He asserts on appeal that the Government failed to prove at sentencing that the drugs were crack cocaine. Finding no plain error, we affirm.

Relying on United States v. James, 78 F.3d 851 (3d Cir. 1996), Garrison contends that the Government failed to prove at sentencing that the drugs were crack cocaine because there was no evidence presented that the drugs were processed with sodium bicarbonate. Because Garrison failed to raise this issue below, he has forfeited review, absent plain error. See United States v. Wells, 163 F.3d 889, 900 (4th Cir. 1998). His reliance on James is misplaced. Unlike in James, the evidence in this case is unambiguous--the record discloses no indication that the cocaine attributed to Garrison was any form of cocaine base other than crack. We therefore find no plain error.

Accordingly, we affirm Garrison's sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.*

AFFIRMED

*In light of our determination that argument is unnecessary, we deny Appellant's motion for oral argument.